

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. Serial No.: 09/914,176

Attorney Docket No.: 78104.028

Filing Date: 24 August 2001

Applicant(s): FRENCH et al.

Title: **IDENTIFICATION OF BACTERIA BY AMPLIFICATION AND PROBING****SUPPLEMENTAL RESPONSE TO DECISION DATED 30 SEPTEMBER 2003****Box: PCT Legal Office**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FILED BY FAX: 703-308-6459 - 3 PAGES**RECEIVED**
OCT 06 2003
Legal Staff
International Division

To the Commissioner:

Further to Applicants' Petition filed 03 December 2002, and the Office's dismissal thereof in a Decision dated 30 September 2003, Applicants request reconsideration of the Decision in view of the following supplemental statement.

SUPPLEMENTAL FACTS IN SUPPORT OF PETITION

I, Joseph T. Leone, the undersigned counsel for Applicants, have personal knowledge of the facts of this case. I am responsible for prosecuting this application before the U.S. Patent and Trademark Office. Pursuant to 37 CFR §1.8(b), I hereby declare and state as follows:

I received in my office a Notice of Missing Requirements sometime in late October of 2001. The Notice of Missing Requirements was dated October 22, 2001. The Notice indicated that Applicants needed to file a signed inventors' declaration and to supply a Sequence Listing in both paper and computer-readable format. The Notice set a two-month period for response. Thus, a response to the Notice was due on or before December 22, 2001.

On November 13, 2001, I personally prepared and filed a complete response to the Notice with the Office. I signed the response, and my secretary, Marcia Layton, signed the

certificate of mailing in my presence. I personally placed the response in an envelope, attached the required postage, and dropped the envelope in the outgoing mail on November 13, 2001. A true and complete copy of Applicants' response was previously submitted to the Office (as Exhibit A of Applicants' original Petition). I hereby confirm, by my own personal knowledge, that Exhibit A attached to Applicants' original Petition is a true and complete copy of the response to the Notice of Missing Requirements that I filed on November 13, 2001.

A self-addressed return receipt postcard was included as part of my November 13, 2001 response. As of the date of this supplemental response (October 6, 2003), the postcard still has not been received in my office. A follow up review of my financial records indicates that check No. 005415, the check that accompanied my November 13, 2001 response, has not been paid.

In late November or early December of 2002, I received in my office a Notice of Abandonment in this case. The Notice of Abandonment is dated November 21, 2002. Upon receipt of the Notice of Abandonment, I promptly filed the Petition to Revive that is presently under consideration (on 3 December 2002).

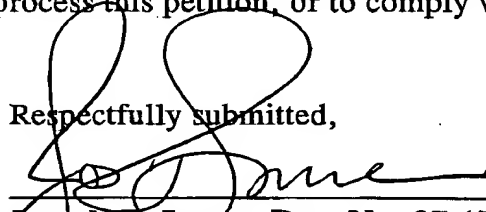
The above facts are relayed pursuant to my personal, first-hand knowledge of the course of events in this matter.

I, Joseph T. Leone, Registration No. 37,170, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which the attached documents are directed.

Applicants therefore respectfully renew their earlier petition, and request that the Notification of Abandonment dated November 21, 2002 be withdrawn, that the documents submitted in their Petition dated 3 December 2002 be entered into the application, and that the application be placed in line for examination on the merits. Early notification of such action is earnestly solicited.

The Commissioner is hereby authorized to charge any additional fees required to process this petition, or to comply with the Notice, to Deposit Account No. 18-2055.

Respectfully submitted,


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I hereby certify that this correspondence is being deposited by fax with U.S. Postal Service to:

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